IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

CRL.A.No. 134 of 2001()

CC.42/2000 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, TRIVANDRUM

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APPELLANT: COMPLAINANT

B.RAMAMOORTHY
T.C.40/484, ARUN VIHAR, 3RD PUTHEN STREET
MANACAUD P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENTS: ACCUSED & STATE

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1. P.GEETHA, T.C.12/828
   BARTON HILL, KUNNUKUZHI P.O.
   THIRUVANANTHAPURAM.

2. STATE OF KERALA
   REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.134 of 2001

Dated this the 17th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 23.7.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl